

REMARKS

Applicants have carefully reviewed the Office Action mailed on November 9, 2010. Applicants respectfully traverse (and do not concede) all objections, rejections, adverse statements, and adverse assertions made by the Examiner. With this amendment, claims 1, 37, and 39 are amended. No new matter is added. Claims 1, 7, 37, 39, 40, 42, and 43 are presented for examination.

Claim Rejections Under 35 U.S.C. §103

Claims 1, 37, 39, 40, and 43 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kline in U.S. Patent No. 5,376,094 in view of Savage in U.S. Patent No. 6,530,899. Applicants respectfully traverse the rejection.

Regarding claim 1, this claim is amended and now recites, among other things:

- wherein the sheath has a proximal end;
- wherein the shaft has a proximal end;
- wherein the proximal end of the shaft is spaced from the proximal end of the sheath a first distance when the shaft is in the first position;
- wherein the proximal end of the shaft is spaced from the proximal end of the sheath a second distance when the shaft is in the second position; and
- wherein the first distance is different from the second distance.

Kline does not appear to teach or suggest at least these limitations. For example, Kline discloses that both the sheath 14 and the cable 12 are attached to the nose 16. See: column 4, lines 8-9; column 4, lines 59-62; and column 5, lines 45-46. Thus, regardless of the positioning of the cable 12 (e.g., regardless of whether or not the snare loop 20 is deployed or not), the spacing between the proximal ends of the sheath 14 and the cable 12 remains constant. Because of this, Kline et al. cannot teach or suggest all the claim limitations of amended claim 1. Savage does not appear to overcome the shortcomings of Kline. Consequently, Applicants respectfully submit that amended claim 1 is patentable over the cited art.

Regarding claim 37, this claim is amended to recite that the sliding member [is] directly attached to the shaft. Kline does not appear to teach or suggest this limitation. Instead, Kline discloses that “[t]he proximal end of cable 12 is fixed to nose 16 of handle body 18.” See: column 4, lines 8-9 and column 4, lines 59-62. Savage does not appear to overcome the shortcomings of Kline. Consequently, Applicants respectfully submit that amended claim 37 is patentable over the cited art.

Regarding claims 39, 40, and 43, claim 39 is amended in a manner similar to claim 1 and now recites, among other things:

wherein the sheath has a proximal end;
wherein the shaft has a proximal end;
wherein the distance between the proximal end of the shaft and the proximal end of the sheath is variable;

For reasons similar to those set forth above in relation to claim 1, Applicants respectfully submit that this amendment distinguishes claim 39, as well as claims 40 and 43 depending therefrom, from the cited art.

Claims 7 and 42 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kline in view of Savage as applied to claims 1, 37, 39, 40, and 43 above, and further in view of Fleury Jr. in U.S. Patent No. 4,326,530. For the reasons set forth above, Applicants respectfully submit that claims 1 and 39 are patentable over Kline and Savage. Fleury, Jr. does not appear to overcome the shortcomings of the cited art. Consequently, Applicants respectfully submit that claims 1 and 39 are patentable over the combination of Kline, Savage, and Fleury, Jr., to the extent that such a combination is even possible. Because claims 7 and 42 depend from patentable claims 1 and 39, respectively, Applicants respectfully submit that these claims are also patentable over the cited art.

Conclusion

Reconsideration and further examination of the rejections are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

John A. Griego et al.

By their Attorney,

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